

excellent addition to the United States Court of Appeals for the Fifth Circuit.

In addition to serving our State, Judge Southwick has also honorably served our country. During his mission to Iraq in 2005, Southwick found the time to write me often to let me know about his experiences there. Upon his return to the United States, Judge Southwick shared with others his humbling experience serving our country. It is clear from his writings and speaking that he served with pride and dignity.

Other the years, Judge Southwick has earned the reputation of being a person of high morals, dignity, and fairness. It is unfortunate that there are some who have made him the chosen sacrifice to promote agendas and have set out to taint all that Judge Southwick has worked so hard to accomplish. I am prayerful that those efforts will not preclude Judge Southwick from serving as our next Judge on the United States Court of Appeals for the Fifth Circuit.

If additional information is needed, please feel free to contact me.

Yours truly,

A. LA'VERNE EDNEY.

SUPREME COURT OF MISSISSIPPI,  
Jackson, MS, June 5, 2007.

Re Judge Leslie H. Southwick.

Hon. ARLEN SPECTER,

Ranking Member, Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: This letter is enthusiastically written to urge you and the Committee to confirm Leslie H. Southwick to serve on the Fifth Circuit Court of Appeals. I've known him for many years and I'm honored to give him my highest recommendation, without reservation. In every way he is worthy to serve.

Judge Southwick's scholarship and character are stellar. The opinions he wrote during his ten years on the Mississippi Court of Appeals reflect his thoroughness and fairness, as well as the depth of his knowledge and the quality and clarity of his reasoning and writing.

In every aspect of his legal career and life in general, Leslie Southwick has excelled. He has a long and consistent record as a devoted family man, a courageous military leader, an accomplished author, and an excellent appellate judge. His awareness and attention to promoting fairness and equality with regard to race and gender are exemplary.

Our country needs conscientious and independent judges of impeccable integrity and I cannot think of anyone who better qualifies for this appointment!

Sincerely,

KAY B. COBB (1999-2007)

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MENENDEZ. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IMMIGRATION

Mr. MENENDEZ. Mr. President, from my State of New Jersey and that part of the State in which I live, we can almost touch Lady Liberty. She is that close to us from a State park called Liberty State Park, an area I had the unique privilege of representing in the House of Representatives for 13 years

and an area I still represent as the junior Senator from New Jersey, an area I have fond memories of because of the power of what it means. From that same park we can cross a bridge and go to Ellis Island, a place to which millions came to America to start a journey, a journey that contributed enormously to its great promise, enormously to the great country that it is today.

I rise to discuss the recent cloture vote on immigration with that context in mind. The Senate had a historic opportunity to move forward today with comprehensive immigration reform that truly secured our borders, that realized the economic realities of our time and allowed people the opportunity to come out of the shadows into the light to earn their legalization.

Unfortunately, the Senate decided to maintain the status quo, a status quo of broken borders, that does not meet our economic challenges, and that permits human exploitation and trafficking to take place.

As someone who was part of the early negotiations back in March of this year on the question of immigration reform, I maintained then that the administration had leaped away from the largely bipartisan bill of last year that received 23 Republican votes and 39 Democratic votes to a much more conservative, much more impractical, and a much more partisan proposal this year. I was unable to join several of my colleagues in what has become known as the grand bargain. I acknowledge and appreciate several of those who advocated, because we were only on the floor on immigration reform, truly a critical issue for this country, as a result of their leadership, colleagues such as Senators KENNEDY and SALAZAR and GRAHAM, to name a few, who truly believed in that opportunity; at the same time, because of the leadership of the majority leader, who was willing to take on one of the most contentious issues, an issue that has been contentious throughout our country's history. I have often remarked on the floor how on the question of immigration, it is interesting to have heard the language of those debates at different times in our history.

Ben Franklin referred to no longer being able to accept those who were coming to our shores in negative terms. He was talking then about the Germans. The former Governor of Massachusetts, in the early 1900s, said that, in fact, they are sending the most illiterate of their people to our shores. He was talking then about the Irish. In 1925, in an official report of the Los Angeles Chamber of Commerce, they said: We need the Mexicans because of their bending and crouching habits which the whites cannot attain themselves to in order to pick our produce. We had the Chinese exclusionary provisions.

So while this has always been a welcoming country, the debate has not been as welcoming. On that day when the "Grand Bargain" was announced, I

came to this Chamber to express my opposition to the deal that was announced because I believed it was deficient in some regard and to say that I would work to improve it. Looking back at what I said then, in light of today's vote, it was strikingly clairvoyant to me, to say the least.

I said on that day we must come together not as Democrats and Republicans or liberals and conservatives but as statesmen and, in doing so, honor the traditions of the Senate as a body that values reasoning, honest debate, and compromise over sound bites and talking points but especially over the politics of fear.

Unfortunately, today, the voices that appealed to that fear and the lowest common denominator won out. Only 12 of our Republican colleagues were willing to stand up and vote to invoke cloture, almost half of those who voted for last year's bipartisan immigration bill.

Only 12 Republican colleagues were willing to move forward, at least for the final essence of debates and amendments, and to a final vote, which is about half of those who voted last year for immigration reform.

Now, personally, I still had serious concerns about the direction of the bill, but I voted to keep it alive because I wanted to work to make it better and because I believe in comprehensive immigration reform as something that is in the national interest and national security of the United States and because America's promise and its security should not have been snuffed out by one single vote.

I said back on that day in May that I could not sign on to the agreement because it tore families apart, and it says to many they are only good enough to work here and give their human capital and slave but never good enough to stay here. But instead of responding to those erstwhile concerns from those of us willing to be supportive of comprehensive immigration reform, the appeal was constantly made to the right of the spectrum, to those who actually achieved some of the things they wanted in the bill but, obviously, never even intended to vote for comprehensive immigration reform—not even to vote to allow it to move forward. As it moved to the right, it got less and less support from the right.

Unfortunately, instead of working with those of us who were willing to not only work to improve this bill but also put our votes where our mouths were, they kept giving in to demand after demand from conservative Republicans, and in turn this bill moved further and further to the right.

In fact, at least two Members who were at the press conference on May 17 and got things included in the bill voted against keeping this process moving forward by voting against cloture today.

Ultimately, in my mind, this came down to a President and a party who was, once again, there for the photo

ops and the press conferences but was not willing to roll up their sleeves and do the hard work to improve this bill and help it move forward for our Nation: a Republican Party that was not about progress but about partisanship; a Republican Party that was not about solving our Nation's problems but seeking political gain by stopping progress of any sort in this Senate; the same President who used large amounts of political capital misleading our country into a disastrous war in Iraq, with little political capital on truly improving our Nation's security through tough yet practical and comprehensive immigration reform; a President who used political capital on tax cuts for the wealthiest in our country but not on truly meeting our Nation's economic needs through fair and comprehensive immigration reform; and it is either a President who has no political capital or one who was not willing to use it.

Finally, throughout my life, and most recently on the Senate floor, I have heard the phrase "those people"—"those people." Those who use that phrase are the voices of division and discrimination. They are the xenophobes who exist today and have existed at different times in our Nation's history but whose voices have ultimately been overcome to give way to the greatest successful experiment in the history of mankind—the United States of America that we know today.

But the last phrase of Emma Lazarus's poem emblazoned on the inner wall of the pedestal of the Statue of Liberty says:

I lift my lamp beside the golden door!

Maybe today that lamp is somewhat dimmer, but it will shine again. The course of history is unalterable, the human spirit cannot be shackled forever, the drumbeat for security, economic vitality and, most importantly, justice will only grow stronger.

Finally, to those who have often referred to "those people" in this debate, let me say on behalf of "those people," we have seen the light, and we simply will not be thrust back into the darkness.

Mr. DOMENICI. Mr. President, I rise today to discuss my vote against cloture on S. 1639, the border security and immigration reform bill debated by the Senate this week.

I support some of the proposals behind S. 1639 because we must address our border and immigration crisis. However, I was forced to vote no on the motion to invoke cloture on S. 1639 for several reasons.

The bill before us is neither workable nor realistic. Additionally, many Senators do not even know what is in the latest version of the bill.

It is also pretty clear to this Senator that anything similar to S. 1639 is dead on arrival in the House of Representatives. I question the rationale of passing a bill that has so many flaws when several Members of the House have said this bill will not even be considered by

the House. Would it not be better for all of us to have a more open and fair debate on border security and immigration that is not subjected to unnecessary deadlines and closed-door decisionmaking?

In addition, as a border State Senator, I know first-hand the need to secure our borders because every day my constituents tell me about the problems they face because of illegal entries into our country. We have a crisis on our borders that must be resolved.

However, instead of pursuing immediate emergency funding to help secure our border, S. 1639 cobbles border security improvements and funding with some concerning immigration reforms. While the bill also provided \$4.4 billion to fund these border security initiatives, that money was contingent upon final passage of the bill by Congress, something that appears to be less than a sure thing.

What is clear to me is that the American people want the measures in the bill—like providing 20,000 Border Patrol agents, constructing 370 miles of border fencing and 300 miles of border vehicle barriers, putting 105 radar and camera towers on the border, and using four unmanned aerial vehicles for border security—in place before we address the millions of unauthorized aliens living and working in the United States. Therefore, I believe it would be more appropriate to provide \$4.4 billion in border security funding in a separate emergency spending bill to fund these border security initiatives.

Additionally, I remain concerned about the amendment process associated with this bill. More than 300 amendments were filed to this bill's predecessor, S. 1348, and almost 150 amendments have been filed to S. 1639. However, we were only allowed to consider 26 amendments to S. 1639. Border security and immigration reform are the most important domestic issues facing the United States today. Clearly the Senate, the most deliberative body in the world, should be allowed to consider additional amendments that could improve upon this bill. While one of my amendments is part of the package of amendments that was allowed to be considered to this bill, I had other good ideas to make this bill better for New Mexico, the southwest border, and the United States. Many of my colleagues on both sides of the aisle did too, and we deserve an opportunity to consider those amendments.

Also, some of the provisions that I initially supported in this bill have been amended to the point that the bill no longer has its initial purposes. For example, the temporary worker program that is critical to so many industries in my State does not meet those industries' needs.

Further, I am concerned by statements by members of the bipartisan border and immigration working group that some issues of concern in S. 1639 will be resolved in conference. The Senate should debate the issues of concern

in this bill; we should not rely on a small group of our colleagues to resolve those issues in an unamendable conference report.

Lastly, I have been told that this bill would have an interesting and unintended effect in my home State of New Mexico. As I understand it, New Mexico State law would allow all Z visa holders under this bill to qualify for Medicaid. That matter needs to be reviewed and its impacts fully considered so that the Congress can avoid unintended effects of this bill.

For all of these reasons, I decided to vote no on the motion to invoke cloture on S. 1639. We need improved border security and immigration reform.

Mr. KERRY. Mr. President, last night there was a vote on a critical amendment to the immigration bill, Senator BAUCUS' proposal to strip any reference to REAL ID in the underlying bill. This, truly, is a case of addition by subtraction.

REAL ID—astronomically expensive, personally intrusive, controversial, and unrealistic, passed by the last Congress without real scrutiny—is precisely the kind of impractical trigger that could derail comprehensive immigration reform.

Unless we amend this bill, real reform will have to wait for REAL ID. Consider the groups lined up against it: not just the ACLU, but also the National Conference of State Legislatures, and the National Governors Association. Since REAL ID passed in the last Congress, 16 States have enacted anti-Real ID bills or resolutions. Another 22 States, including my own, have anti-Real ID bills and resolutions pending in their State legislatures.

Why are they so opposed to REAL ID? They are opposed because it sets an unreachable standard and offers States almost no financial help in meeting it. Conservative estimates state that it would cost \$23 billion to fully implement REAL ID. This legislation only authorizes \$1.5 billion for States and the President didn't ask for a single dollar for REAL ID in his budget request. That means that States would have to shoulder a \$21 billion burden. That is an enormous unfunded mandate.

This crushing financial burden on States is bad enough—but REAL ID poses a security risk as well. Its requirements expose people's personal data to theft by creating a massive pool of highly sensitive personal information such as Social Security numbers, birth certificates and driving information.

Even if States could pay for this new program it would require a tremendous amount of personnel and work to get this done. The Massachusetts DMV has estimated it would take 10 years to re-enroll current citizens with licenses alone, which would place them beyond the 2013 deadline in the bill.

REAL ID is profoundly flawed—That is why six States have passed laws that prohibit it from being implemented at

all. These States will never be REAL ID compliant and that is why its inclusion in the immigration bill is so dangerous.

Immigration reform is difficult enough without conditioning it on an unfeasible, unfunded mandate that States are not only unwilling but in some cases legally bound not to meet. Squaring that circle should not be a precondition for a much larger need: providing real immigration reform for the American people.

I am proud to have supported the Baucus-Tester amendment to remove this dangerous and nonsensical provision from the underlying bill. I hope that we will be able to move forward and create a fair, reasonable and comprehensive immigration bill that this country so desperately needs.

Mr. LEVIN. Mr. President, our immigration system is broken and needs reform. Undocumented immigrants flow through our porous borders. Employers hire them with near impunity. Our Government lacks the ability to adequately detect unauthorized employment, while employers in sectors such as agriculture, Michigan's second largest industry, fear that their crops will go unpicked for lack of legal, authorized workers. The bipartisan compromise bill before the Senate was an opportunity to make progress on a very difficult problem.

The first step in immigration reform must be stronger border security. Although there were some provisions in the bill before the Senate that I did not support, this legislation had strong border security measures, even stronger than the ones we debated a few weeks ago. In fact, it contained the funding for the enhanced border security.

We need a more secure, more sensible, and fairer system of immigration. Because of filibusters in the Senate we have been unable to fully consider and amend the bill. We do not know what the final language might have been, and we were unable to vote on amendments which we favored. We should have finished the consideration of those amendments to determine whether or not the final product was an improvement on the status quo. To do that, cloture was required to end the filibuster. I am disappointed that the Senate was thwarted in that endeavor.

Mr. ENZI. Mr. President, I opposed S. 1639, the immigration reform bill, and the motion to invoke cloture on this flawed piece of legislation.

Our immigration system is complicated. Our borders remain open. We cannot have immigration reform without strengthening the security of our borders. This unsound bill circumvented our Senate process and attempted to buy off support by throwing in carrots for Senators in exchange for their support.

The American people understand what is going on here in the Senate debate and they understand what cloture means. They are flooding our offices in

Washington, DC, and our offices in our home States with calls and e-mails so much so that our phone system cannot keep up. The people of Wyoming have made it clear to me that they do not support this legislation. They want something to be done to address our borders, but do not support the blanket amnesty of this bill.

The current situation of an open border and an overly complex hiring process encourages illegal immigration and the hiring of illegal workers. Once we improve these situations, we can determine what steps may be necessary for addressing the illegal immigrant population.

We should not, however, even be considering amnesty. Amnesty encourages illegal immigration. In 1986, 7 million immigrants were granted amnesty. Today we are facing an illegal population of over 12 million. The 1986 amnesty did not stop illegal immigration. We should not repeat this policy without ensuring that we are not making the same mistake.

This is a complicated issue that will directly impact businesses across the United States. Improvements are needed in employer verification processes, but those improvements cannot be made in legislation forced through the Senate by vote trading. People who break laws should be held accountable for their actions. This means better enforcement of our current laws, both on the border and by employers. Employers must be given the tools to verify legal workers and be held accountable when they knowingly hire illegal immigrants.

We in the U.S. Senate still have the opportunity to do some good. We can go back to our committee process and draft legislation that could help our Border Patrol do their jobs. We can put together an employee verification system that actually works and does not run small businesses out of business through fines. There could be a lot of solutions for securing our border and making sure that people who are hired are legal immigrants. We can improve the way that temporary seasonal worker visas and agricultural worker visas are processed.

Rewarding bad behavior only encourages more bad behavior. We will not encourage more bad legislative behavior by going forward with this legislation.

Mr. HATCH. Mr. President, I rise today to speak of my vote against cloture on the motion to proceed to S. 1639, the comprehensive immigration reform bill. This issue continues to be a divisive one, both in the halls of Congress and throughout our Nation. Indeed, many people throughout the country have strongly held views when it comes to our Nation's immigration policy. In fact, over the past month, I have heard from countless Utahns who have contacted me with their views on immigration reform. I expect that every Senator's office has been overwhelmed with calls, emails, and faxes

from constituents expressing their concerns with various provisions of the bill.

While I commend the bipartisan panel of Senators that has worked tirelessly to negotiate this legislation, I must express my disappointment in the manner in which the bill's proponents have sought to move this bill through the Senate.

I, for one, am supportive of comprehensive immigration reform and for many of the approaches outlined in this bill. We simply cannot be asked to live with the status quo. However, once again, there are several huge problems with this bill, and I believe that a more thorough vetting of this legislation through debate and amendment could have fixed those problems and ensured that it contained policy changes the American people would support.

As many have observed throughout this debate, there are currently millions of illegal immigrants residing within our Nation's borders. No one knows exactly how many, only that they are here, they are working, and, in large part, they contribute to our economy.

We also have many businesses and industries that must have access to foreign labor, especially during this time when, while are seeing record lows in unemployment, we still have a shortage of workers.

Under the status quo, employers are too often forced to make a decision between hiring illegal workers and wondering whether our inefficient and often arbitrary enforcement efforts will catch up with them or abiding by the law and closing the doors of their businesses.

We need to find a fair, compassionate and lawful way to deal with the illegal immigrants already in this country. We need to create a guest worker program for those businesses in need of foreign workers. And, we need to improve the system by which we legally distribute visas and green cards to make it more fair and efficient.

The authors of this legislation have tried to address these issues in the current bill, and I applaud them for their efforts. However, they addressed them in various ways that, in the minds of many, make this bill completely unworkable and ineffective. The policies proposed by legislation are almost impossible to implement and even if they could be implemented, there are so many loopholes and exclusions that almost every solution in the bill can and will be bypassed by those who want to continue to exploit the system. I am convinced that many of my colleagues understand these concerns and even agree with my assessment, but they are so anxious to end this debate and reach a successful conclusion they compromised several core values that Americans hold dear and made damaging concessions.

The provisions of this bill were negotiated and vetted in secret. It was then brought to the floor where the apparently shaky coalition that drafted the

legislation have, throughout this process, voted as a block to prevent the passage of any so-called "deal-breaking" amendments. At several points during the debate, members of this coalition have admitted that the amendments in question would, in their opinion, improve the overall bill. Yet, in an effort to preserve the coalition, they have worked together to prevent the passage of even some of the most reasonable, commonsense amendments.

Then, after an initial attempt to end the debate failed, the majority leader agreed to let the debate go forward and to have votes on a number of amendments. Initially, this sounded good. However, it soon became clear that, in another effort to preserve this shaky, flawed compromise, the only amendments that would be voted on were those of the majority leader's own choosing.

I don't believe that anyone should be criticized for their willingness to compromise. Clearly, compromise is a vital part of what we do in the Senate. However, we simply cannot value compromise for compromise's own sake. Indeed, we should not push through such fatally flawed legislation simply because it is the product of compromise. Compromise—the means by which the Senate passes legislation that will benefit our Nation—is not an end unto itself.

Yet, too many of my colleagues seem all too willing to simply push this legislation through simply to preserve this great compromise. In fact, it almost appears as if some would consider our efforts successful if we were simply able to bring this bill to passage, regardless of what the bill looked like and regardless of what its effect would be on our immigration system. However, I believe that if we were to follow this course, we would be wasting an opportunity to provide real reforms to our Nation's immigration policy and to provide real solutions for our Nation's many immigration problems.

It is not a novel idea to suggest that there was a better way to approach this problem. That way, Mr. President, was the process by which we approach all issues of this magnitude. This bill was brought to the floor without having gone through the committee process. This is never a good sign for any piece of legislation. Whenever you bypass the regular order of the Senate, there will undoubtedly be a significant portion of our constituents who feel as if their views don't count. The Senate has used and maintained the committee structure for over 200 years, and it has served the American people well. In this case, refusing to use the time-tested committee structure has been a recipe for disaster.

The decision to bring this bill directly to the floor robbed many Senators of an opportunity to examine the bill thoroughly and publicly express their concerns. In addition, it made certain that the bill would come before the entire Senate without the benefit of Com-

mittee hearings, expert testimony, and a public markup.

Strangely enough, this is the precise criticism meted out by the Democrats when they were in the minority last Congress. Now that control of the Senate has changed hands, it seems the Democrat requirement for regular order is not necessary anymore.

Mr. President, we have been told that this is our last chance to pass immigration reform for several years. I disagree. Once again, there were other approaches that could have been taken to pass this legislation, and these options remain available. In addition, there are many areas of agreement when it comes to immigration. Therefore, I believe that we can find a way to address our immigration problems that will satisfy the American people.

But, to do that, we need a process that is fair and open. The process we have followed in this case has been too limiting and, as a result, we have a bill that the vast majority of Americans will not support. That being the case, I oppose this effort to end debate and to push this bill through.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SALAZAR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF LIEUTENANT GENERAL DOUGLAS E. LUTE TO BE ASSISTANT TO THE PRESIDENT AND DEPUTY NATIONAL SECURITY ADVISER FOR IRAQ AND AFGHANISTAN

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to executive session to consider Calendar No. 165, the nomination of LTG Douglas Lute; that the time until 3 o'clock be for debate on the nomination, equally divided between myself and Senator WARNER or his designee; that at the conclusion or yielding back of time, the nomination be laid aside and the Senate return to legislative session in morning business; and that at 4 p.m., the Senate return to executive session and the vote on confirmation of the nomination of Lieutenant General Lute.

I also am hopeful that there will be some votes on judicial nominees as well today, but that has not yet been cleared.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read the nomination of Douglas E. Lute, Department of Defense, Army, to be Lieutenant General.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I yield myself 8 minutes.

I support the nomination of LTG Doug Lute to be Assistant to the President and Deputy National Security Adviser for Iraq and Afghanistan.

Lieutenant General Lute is an accomplished senior officer with a distinguished record and great experience in both military tactics and national security strategy and policy. Lieutenant General Lute has been serving as the Director of Operations, J-3, on the Joint Staff since September of 2006. Immediately prior to this assignment, he served for more than 2 years as the Director of Operations, J-3, at U.S. Central Command, overseeing combat operations in Iraq and Afghanistan and other operations in the CENTCOM area of responsibility.

While I know of no concerns as to General Lute's qualifications for the position to which he has been nominated by the President, there have been some other concerns expressed about this nomination. The first concern questions the need for the position itself as well as the potential for confusion as to who is responsible for Iraq and Afghanistan policy. On the one hand, the position implies a direct and independent relationship with the President as Assistant to the President, and on the other hand, as Deputy National Security Adviser for Iraq and Afghanistan, the position implies subordination to the National Security Adviser.

One can argue that the responsibility for Iraq and Afghanistan policy clearly belongs to the National Security Adviser, as well as the responsibility for directly advising the President on those issues. Creating a position with ambiguous subordination to the National Security Adviser could needlessly complicate and confuse an already confused policy process. I, too, have some concerns in this regard but not to the extent that I will oppose the President's decision to create such a position.

The other concern which has been expressed is that appointing an Active-Duty military officer to such a political position is a practice which should be avoided in that for the officer in question, it needlessly blurs the distinction between recommendations he might make based on unbiased professional military judgment and those based upon or colored by political considerations. In a larger sense, it is counter to the traditional American approach to civil-military relations. For the individual officer, it may also create difficulties in subsequently returning from a political position to a uniformed, apolitical, military position. I emphasize that General Lute will remain on active duty during this period.

However, this would not be the first time that uniformed military officers, remaining on active duty, have served